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ABSTRACT

This document prescribes the rules and minimum standards under which the Board of Governors of the University of North Carolina issues licenses to nonpublic educational institutions to confer degrees in North Carolina. The rules and standards are to a significant degree based on the legislative model proposed by the Education Commission of the States. The new regulations provide definitions of "degree" and related terms. The lack of definitions in the past gave opportunity for the existence of diploma mills and other operations of questionable educational legitimacy. The Board of Governors also specifies procedures for renewing degree granting licensure as well as obtaining an original license. The renewal procedure provides a mechanism for determining that institutions are maintaining minimum standards of academic and institutional responsibility. Section 1 of this document cites the authorization for establishment of the rules and standards. Section 2 states their purpose. Section 3 consists of the minimum standards themselves. Section 4 provides for accreditation as evidence of compliance with minimum standards. Section 5 and 6 provide for regular licensure and provisional licensure. Section 7 outlines the procedures for implementation. Section 8 provides for enforcement and section 9 defines terms used. Appendixes A and B follow the text. (Author/KE)

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RULES AND STANDARDS FOR LICENSING NON-PUBLIC EDUCATIONAL INSTITUTIONS TO CONFER DEGREES

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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MARCH 1974
BOARD OF GOVERNORS
THE UNIVERSITY OF NORTH CAROLINA

THE
UNIVERSITY
OF
NORTH CAROLINA

William A. Dees, Chairman
Board of Governors

William Friday
President

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FOREWORD

The rules and standards contained in this document represent a fulfillment of one of the responsibilities of the Board of Governors of The University of North Carolina that extends beyond its role in the governance of The University. The statute requiring the licensing of certain non-public educational institutions to confer degrees has been a part of the laws of this state for many years. As indicated in the introduction, the State Board of Education and the former State Board of Higher Education preceded the Board of Governors as the holders of responsibility in this matter.

The Office of Vice President for Student Services and Special Programs has been assigned the task of determining those excluded by the Statutes, receiving and reviewing the applications for licensing, and recommending to the Board of Governors those institutions that should be licensed in accordance with the rules and standards contained in this document.

The Board of Governors has expressed a strong commitment to the principle that in the execution of its responsibility all possible precautions must be taken against interference in the internal operations of the institutions which by law must come under the purview of this licensing process. I believe this commitment will be faithfully obeyed.

To the end that we may serve these institutions and the State effectively and appropriately, the Board of Governors anticipates entertaining recommendations for improvements of the current edition of its *Rules and Standards* for licensing.

William Friday
President
The University of North Carolina

INTRODUCTION

Before 1963 legal responsibility for the licensing of non-public educational institutions to confer degrees in North Carolina was that of the State Board of Education. In that year the General Assembly enacted legislation transferring the licensing authority to the State Board of Higher Education. The following year that State agency established a policy that the accreditation standards of the Southern Association of Colleges and Schools would be the "minimum standards to be achieved by educational institutions to be licensed to confer degrees in North Carolina."

On July 1, 1972, under the reorganization of higher education act, the State Board of Higher Education was dissolved and the responsibility for licensing transferred to the newly created Board of Governors of The University of North Carolina. The Board of Governors continued until February 8, 1974, the licensing policy established by the State Board of Higher Education. On that date the Board of Governors adopted, as published herein, *Rules and Standards of the Board of Governors of The University of North Carolina Relating to the Issuance of Licenses to Non-Public Educational Institutions to Confer Degrees.* The action was taken following extensive staff study and involvement of those who would be affected.

The *Rules and Standards* are to a significant degree based on the legislative model proposed by the Education Commission of the States in Report Number 39, issued by the Commission in June 1973. The new regulations provide definitions of "degree" and related terms. The lack of definitions in the past gave opportunity for the existence of "diploma mills" and other operations of questionable educational legitimacy.

The Board of Governors' *Rules and Standards* also specify procedures for renewing degree-granting licensure as well as obtaining an original license. The renewal procedure provides a mechanism for determining that institutions are maintaining minimum standards of academic and institutional responsibility. This enables the Board to respond to its legal mandate, if necessary, to revoke licensure if a non-public educational institution fails to maintain the required standards.

Details for implementing the *Rules and Standards* are omitted in this document. They are provided in an accompanying set of guidelines, which may be modified as time and circumstances suggest. The rules and standards themselves are intended to be broad, standing policies.

The licensing of non-public educational institutions to confer degrees has recently taken on added significance. The Federal Education Amendments of 1972 encourage an expanded basis for recognition of institutions and programs which may be considered viable and acceptable at the post-secondary educational level. The encouragement comes through less restrictive criteria that an institution must meet to qualify for Federal funds. The result is that the total number of post-secondary institutions eligible for the Federal money has increased from approximately 3,000 colleges and universities to 14,000 assorted institutions and programs. Now care must be taken to prevent the

development of questionable, unethical or fraudulent practices by those who would exploit the law. This circumstance was the principal cause underlying the attention given licensing by the Education Commission of the States.

The *Rules and Standards* of the Board of Governors were designed to protect students from spurious or dubious degree-granting institutions by requiring among other things that institutions be state chartered, be in operation for at least two years before granting degrees, offer programs of the quality and content advertised, and possess faculty and facilities which have capabilities to realize the programs.

The *Rules and Standards* and their implementation are in no way meant to regulate unnecessarily established colleges and universities. Those institutions which come under the purview of the *Rules and Standards* (those created or established after April 15, 1923) will be affected only to the extent of providing sufficient evidence that they function at or above the minimum level set by the *Rules and Standards*. Equally important is the protection that these rules and standards help to provide the reputable institutions against the possible damaging effects of questionable educational enterprises.

Harold Delaney
Vice President

John Corey
Assistant Vice President

Student Services and Special Programs
General Administration
The University of North Carolina

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This publication prescribes the rules and minimum standards under which the Board of Governors of The University of North Carolina issues licenses to non-public educational institutions to confer degrees in North Carolina. Section one cites the authorization for establishment of the rules and standards. Section two states their purpose. Section three consists of the minimum standards themselves. Section four provides for accreditation as evidence of compliance with minimum standards. Sections five and six provide for regular licensure and provisional licensure. Section seven outlines the procedures for implementation. Section eight provides for enforcement and section nine defines terms used.

I. AUTHORIZATION

The General Statutes of the State of North Carolina specify that the powers and duties of The University of North Carolina in addition to those related to the governance of the constituent institutions of The University include the authority to issue its licenses to confer degrees to non-public educational institutions. The text of the General Statutes pertaining to licensing states:

> No non-public educational institution created or established in this State after April 15, 1923, by any person, firm, organization, or corporation shall have power or authority to confer degrees upon any person except as provided in this section. The Board of Governors shall call to the attention of the Attorney General, for such action as he may deem appropriate, any institution failing to comply with the requirements of this section. [G.S. 116-15 (a)].
>
> The Board of Governors, under such standards as it shall establish, may issue its license to confer degrees in such form as it may prescribe to a non-public educational institution established in this State after April 15, 1923, by any person, firm, organization, or corporation; but no non-public educational institution established in the State subsequent to that date shall be empowered to confer degrees unless it has income sufficient to maintain an adequate faculty and equipment sufficient to provide adequate means of instruction in the arts and sciences or in any other recognized field or fields of learning and knowledge. [G.S. 116-15 (b)].
>
> All non-public educational institutions licensed under this section shall file such information with the President as the Board of Governors may direct, and the said Board may evaluate any non-public educational institution applying for a license to confer degrees under this section. If any such non-public educational institution shall fail to maintain the required standards, the Board shall revoke its license to confer degrees, subject to a right of review of this decision in the manner provided in Article 83 of Chapter 143 of the General Statutes. [G.S. 116-15 (c)].

The State Board of Education shall have sole authority to administer and supervise, at the State level, the system of community colleges, technical institutes, and industrial education centers provided in Chapter 115A of the General Statutes, and shall regulate the granting of appropriate awards, two-year degrees, and marks of distinction by those institutions. [G.S. 116-15 (d)].

II. PURPOSE

The purpose of these rules and standards relating to the issuance of licenses to confer degrees is to assure prospective students and citizens of North Carolina that non-public degree-granting educational institutions operating wholly or in part in North Carolina meet minimum standards of quality in their operation.

III. MINIMUM STANDARDS FOR LICENSURE

The Board of Governors requires that a non-public degree-granting educational institution operating wholly or in part in North Carolina must be maintained and operated, or, in the case of a new institution, it must demonstrate that it can be maintained and operated, in compliance with the following minimum standards:

(1) That the institution be state-chartered. If chartered by a state other than North Carolina, the institution must have a certificate of authority to conduct its affairs in North Carolina issued by the Secretary of the State of North Carolina.

(2) That the institution have been in operation for a period of at least two years prior to submitting formal application for regular licensing.

(3) That the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered.

(4) That the institution has adequate space, equipment, instructional materials, and personnel to provide education of good quality.

(5) That the education, experience and other qualifications of directors, administrators, supervisors, and instructors are such as may reasonably insure that the students will receive education consistent with the objectives of the course or program of study.

(6) That the institution provides students and other interested persons with a catalog or brochure containing information describing the programs offered, program objectives, length of program, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, and such other material facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein, together with any other disclosures that may be specified by the Board of

Governors and/or defined in its rules and standards; and that such information is provided to prospective students prior to enrollment.

(7) That upon satisfactory completion of training, the student is given appropriate educational credentials by said institution, indicating that said course or courses of instruction or study have been satisfactorily completed by said student.

(8) That adequate records are maintained by the institution to show attendance, progress, or grades, and that satisfactory standards are enforced relating to attendance, progress, and performance.

(9) That the institution is maintained and operated in compliance with all pertinent ordinances and laws, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises.

(10) That the institution is financially sound and capable of fulfilling its commitments to students.

(11) That neither the institution nor its agents engage in advertising, sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair.

(12) That the chief executive officer, trustees, directors, owners, administrators, supervisors, staff, and instructors are of good reputation and character.

(13) That the student housing owned, maintained, or approved by the institution, if any, is appropriate, safe, and adequate.

(14) That the institution has a fair and equitable cancellation and refund policy.

(15) That any agent of the institution shall be an individual of good reputation and character and shall represent only a post-secondary educational institution or institutions which meet the minimum standards established hereunder.

(16) That no student be excluded from admission for reason of race, sex, creed, or national origin.

IV. ACCREDITATION AS EVIDENCE OF COMPLIANCE WITH MINIMUM STANDARDS

Accreditation by the appropriate accrediting agency recognized by the United States Office of Education may be accepted by the Board of Governors as evidence of compliance with minimum standards established hereunder; provided, the Board of Governors may require such further evidence and make such further investigation as in its judgment may be necessary. Accreditation by a recognized, specialized accrediting agency may be accepted as evidence of such compliance only as to the portion or program of an institution accredited by such agency if the institution as a whole is not accredited.

V. REGULAR LICENSE

To be issued a regular license, the institution must meet the minimum standards as required by the Board of Governors.

VI. PROVISIONAL LICENSE

A provisional license for a period of two years may be granted if the institution can demonstrate satisfactorily that it can meet the minimum standards for regular licensure within a two-year period from the date of formal application for provisional licensure. A provisional license is not renewable.

VII. PROCEDURE FOR IMPLEMENTATION

(1) *For Institutions Seeking An Original Regular License*

(a) PRELIMINARY CONFERENCE. The president of the institution should contact the office of the President of The University of North Carolina and arrange for a preliminary conference to discuss the standards required of the institution and the procedures for implementing licensure.

(b) STATEMENT OF INTENT. If, following the preliminary conference, the institution decides that it does not meet the standards but plans to achieve those standards, the president should write a letter to the President of The University of North Carolina or his designee stating the intention of the institution to apply for licensure when it becomes eligible. Following receipt of this statement of intent, the President of The Univeristy of North Carolina or his designee will schedule a visit to the institution to evaluate its status of development and to review its plan for seeking licensure. The Board of Governors will then provide a statement which the institution may publish in its catalog describing its status as a non-licensed institution and its plan for meeting the standards for licensure to award degrees (sample attached as Appendix A).

(c) LETTER OF APPLICATION. If, following the preliminary conference, the institution feels that it can meet the required standards and desires to apply for licensure, the president should write a letter of formal application for licensure to the President of The University of North Carolina or his designee officially requesting the Board of Governors' consideration of the institution's application.

(d) SUBMISSION OF DOCUMENTATION. The institution's letter of formal application for licensure must be accompanied by appropriate documentation that the institution has achieved and will maintain the minimum standards. If the institution uses accreditation as evidence of compliance with the minimum standards, the documentation must include copies of the institution's self-study report that is required by the accrediting agency and copies of the analyses, findings, and recommendations of the accrediting agency. The institution's self-study and the accrediting agency's review and recommendations should include the following:

(i) Philosophy and Purposes
(ii) Administrative Organization and Control
(iii) Faculty
(iv) Students and Student Services
(v) Educational Program
(vi) Finances
(vii) Library
(viii) Physical Plant
(ix) Auxiliary Activities

These documents and other evidence, such as current statistical data regarding enrollments, programs, student charges, faculty, library, and finances, will be reviewed by the President of The University of North Carolina or his designee to determine if the institution is ready for an examination visit.

(e) EXAMINATION VISIT. If it is determined that the institution is ready for an examination visit, the President of The University of North Carolina or his designee will arrange with the president of the institution for a visit to the campus.

The purpose of the visit is to confirm the documentation furnished by the institution and to ascertain if the institution meets other standards which may be specified by the Board of Governors.

The examination will be accomplished by a team of examiners composed of at least one member of the staff of The University of North Carolina General Administration; faculty members representative of the public and private sectors, appropriate levels and fields of education; and other qualified, appropriate persons appointed by the President of The University of North Carolina. One member of the examining committee will be designated as chairman and will assume responsibility for leadership in conducting the examination and in preparing the examiners' report.

(f) EXAMINERS' REPORT AND RECOMMENDATIONS. Following the examination visit, the examining committee will prepare a report of their visit to the institution and a statement of recommendations regarding the institution's application for licensure. The committee will prepare and submit the report and statement of recommendation to the President of The University of North Carolina within thirty days or as soon as possible after completion of the examination. All recommendations will be advisory to the President of The University of North Carolina.

The statement of recommendation accompanying the examiners' report should be one of the following: (1) that the institution be issued a regular license, (2) that the institution be licensed provisionally with a re-examination within one or two years, (3) that the institution not be licensed but should pursue its program of improvement and re-apply later, or (4) that the institution not be licensed and be advised either to disband or to modify appropriately its published claims.

(g) INSTITUTIONAL HEARING. After the examiners' report and recommendation with regard to dispositon of the application has been transmitted by the examining committee to the President of The University of North Carolina, the President, at his discretion or at the request of the institution, will schedule a hearing to which representatives of the institution will be invited to discuss the report and recommendations and present any further information pertinent to the application. The chairman of the examining committee and members of the staff of The University of North Carolina will normally attend the hearing to present the committee's report and to respond to any questions concerning the examination visit.

(h) INSTITUTION'S WITHDRAWAL OF REQUEST. If the recommendation of the examining committee and the staff of The University of North Carolina is that the institution not be licensed, the institution may wish to and will have the privilege to withdraw its formal request for licensing to the Board of Governors of The University of North Carolina.

(i) BOARD OF GOVERNORS' ACTION. The President of The University of North Carolina or his designee will submit to the Board of Governors for their consideration the official application of the institution for licensing and his recommendation for action by the Board of Governors. After full consideration of the matter, the Board of Governors will make a decision and final disposition of the institution's request for licensing.

(j) RIGHT TO JUDICIAL REVIEW. If any person wishes to challenge the decision of the Board of Governors of The University of North Carolina, he has right to "judicial review of decisions of certain administrative agencies" as provided by Article 33 of Chapter 143 of the General Statutes of the State of North Carolina.*

(k) CERTIFICATE OF LICENSURE. If the action of the Board of Governors of The University of North Carolina is approval, the section in the minutes of the meeting of the Board of Governors of The University of North Carolina reporting this action will be extracted and signed by the President and the Secretary of The University and forwarded to the president of the institution. This extract will serve as the official certification of licensure authorizing the institution to grant degrees as specified.

(l) RESTRICTION. The license issued will authorize the institution to award degrees only to persons who complete the degree programs which are specified in the license.

(m) DURATION. Each regular license issued shall be effective for a maximum period of two years from the date of issuance and subject to renewal each two years thereafter.

(n) ANNUAL REPORTING. The Board of Governors of The University of North Carolina will require from the institution regular annual reporting of statistical data and other information pertaining to appropriate matters. Such information will keep the staff informed regarding the educational program of the institution.

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*An extract of the General Statutes pertaining to "judicial review of decisions of certain administrative agencies" is appended as Appendix B.

(2) *For Institutions Seeking a Provisional License*

The procedure for seeking a provisional license is the same as that for seeking an original regular license except in regard to the submission of documentation, and the duration of the licensure.

(a) SUBMISSION OF DOCUMENTATION. The institution's letter of formal application for provisional licensure should be accompanied by appropriate documentation showing that the institution can achieve the minimum standards within two years of the date of formal application. A statement from the appropriate accrediting agency to the effect that the institution may reasonably be expected to attain full accreditation within a period of two years may be taken as evidence that the minimum standards can be achieved during the period of provisional license. Supporting evidence shall include copies of documents furnished the accrediting agency by the institution, organizational plans of the institution for the process of self-evaluation, and preliminary recommendations of the accrediting agency in regard to the following:

(i) Philosophy and Purpose
(ii) Administrative Organization and Control
(iii) Faculty
(iv) Students and Student Services
(v) Educational Programs
(vi) Finances
(vii) Library
(viii) Physical Plant
(ix) Auxiliary Activities

(b) DURATION. Each provisional license shall be effective for a period up to a maximum of two years from the date of issuance. A provisional license is not renewable.

(3) *For Institutions Seeking a Renewal of Licensure*

(a) APPLICATION. On or before the expiration date of its licensure under the provisions of these procedures, each institution shall file formal application for renewal to the President of The University of North Carolina or his designee. The application for renewal is to be accompanied by copies of the institution's most recent catalog, audited financial reports, and president's reports. In the event an institution has submitted a report to an accrediting agency (regional, professional or special), this report shall be filed with the formal application for renewal. The President of The University of North Carolina or his designee shall review the application for renewal and accompanying documents and either require that the institution provide additional information before consideration is given for renewal of licensure or recommend to the Board of Governors that the institution's license to confer degrees be renewed without an examination. The Board of Governors shall act upon the President's recommendation.

(b) INSTITUTIONS LICENSED PRIOR TO ESTABLISHMENT OF RULES. A regular license issued to an institution prior to the effective date of these rules and standards shall remain in effect for two years following the effective date of these rules and standards. On or before the end of this two-year period, the institution shall file formal application for renewal of licensure as indicated above.

(4) *For Institutions Seeking Licensure for a New Degree Program*

An institution which seeks to begin a new educational degree program must file for amendment to its license giving full documentation which should include an outline of the curriculum to be offered for the new degree program, the qualifications of the faculty to be involved in the program of study, the anticipated enrollment, the financial support for the program, and the relation of this proposed program to the purpose of the institution.

(5) *For Revocation of Licensure*

If any non-public educational institution licensed under provisions of North Carolina General Statute 116-15 fails to maintain the required standards, the Board of Governors of The University of North Carolina shall revoke its license to confer degrees, subject to a right of review of this decision in the manner as specified in these rules and standards. [G.S. 116-15 (a)].

VIII. ENFORCEMENT

The Board of Governors shall call to the attention of the Attorney General of the State of North Carolina, for such action as the Attorney General may deem appropriate, any institution failing to comply with the requirements of the State law pertaining to the licensing of non-public educational institutions to confer degrees.

IX. DEFINITIONS

As used in these rules and standards:

(1) "Non-public educational institution" means any educational facility that is located wholly or in part in this state and is not owned or operated by the State of North Carolina or by any agency or political subdivision of the State or by any combination thereof; that is maintained or conducted by any person, association, partnership, corporation, or trust and operating as a school, institute, junior college, college, university, or entity of whatever kind which furnishes or offers to furnish a degree as defined herein or which furnishes or offers to furnish instruction leading toward or prerequisite to an academic degree beyond the secondary level and which requires that in order to obtain a degree or diploma, the recipient thereof satisfactorily completes appropriate courses or classes or laboratory or research study in person or by correspondence.

(2) "Degree" means any academic or honorary title of designation, mark, appellation, series of letters, numbers, or words, such as, but not limited to associate, bachelor, master, doctor or fellow, which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic program of study beyond the secondary school level or a recognized title conferred for meritorious recognition which may be used for any purpose whatsoever.

(3) "Diploma" means a certificate, transcript, report, document, title of designation, mark, appellation, series of letters, numbers, or words which signifies, purports or is generally taken to signify, attendance, progress, or satisfactory completion of the requirements or prerequisite of an academic degree which may be used for any purpose whatsoever.

(4) "Academic" means instruction or course work beyond the secondary school level in the arts and sciences, technologies, professions, and other specialized fields. Instruction or course work includes class, laboratory, research, field, internship, independent, and experiential types of study.

(5) "Instruction" means the dissemination of knowledge or practice which signifies, purports, or is generally taken to signify, the preparation or education of a person, generally or specifically, for further understanding, study, skill, or training.

(6) "Education" or "educational services" or like term includes, but is not limited to, any class, course, or program of training, instruction, or study.

(7) "Agent" means a person employed by or representing a college within or outside the state to procure North Carolina students, enrollees, or subscribers by solicitation in any form made at a place or places other than the office or legal place of business of a college.

(8) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution.

(9) "Entity" includes, but is not limited to any company, firm, society, association, partnership, corporation, and trust.

APPENDIX A

STATEMENT FOR CATALOG

_____ College was chartered on _____ to operate as a nonprofit (proprietary) educational institution by the State of North Carolina. However, _____ College is not licensed at the present time to award any degree. On _____ _____ College notified the licensing authority of the State of North Carolina that the institution intends to apply for a license to award degrees when it becomes eligible. Eligibility of an institution to award degrees, as required by the State's licensing authority, is largely contingent upon the institution's achievement of the minimum standards of the licensing authority. The State's licensing authority has visited _____ College, evaluated its status of development and reviewed its plan for seeking licensure. The licensing authority has indicated that _____ College is moving on a sound basis toward meeting the minimum standards.

APPENDIX B

(Extracted from the *General Statutes* of North Carolina)

Article 33.

Judicial Review of Decisions of Certain Administrative Agencies.

§ **143-306. Definitions.**—As used in this article the terms

(1) "Administrative agency" or "agency" shall mean any State officer, committee, authority, board, bureau, commission, or department authorized by law to make administrative decisions, except those agencies in the legislative or judicial branches of government, and except those whose procedures are governed by chapter 150 of the General Statutes, or whose administrative decisions are made subject to judicial review under some other statute or statutes containing adequate procedural provisions therefor.

(2) "Administrative decision" or "decision" shall mean any decision, order, or determination rendered by an administrative agency in a proceeding in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after an opportunity for agency hearing. (1953, c. 1094, s. 1.)

§ **143-307. Right to judicial review.**—Any person who is aggrieved by a final administrative decision, and who has exhausted all administrative remedies made available to him by statute or agency rule, is entitled to judicial review of such decision under this article, unless adequate procedure for judicial review is provided by some other statute, in which case the review shall be under such other statute. Nothing in this chapter shall prevent any person from invoking any judicial remedy available to him under the law to test the validity of any administrative action not made reviewable under this article. (1953, c. 1094, s. 2.)

§ **143-308. Right to judicial intervention when agency unreasonably delays decision.**—Unreasonable delay on the part of any agency in reaching a final administrative decision shall be justification for any person whose rights, duties, or privileges are adversely affected by such delay to seek a court order compelling action by the agency. (1953, c. 1094, s. 3.)

§ **143-309. Manner of seeking review; time for filing petition; waiver.**—In order to obtain judicial review of an administrative decision under this chapter the person seeking review must file a petition in the Superior Court of Wake County; except that where the original determination in the matter was made by a county agency or county board and appealed to the State Board, the petition may be filed in the superior court of the county where the petitioner resides. Such petition may be filed at any time after final decision, but must be filed not later than thirty days after a written copy of the decision is served upon the person seeking the review by personal service or by registered mail, return receipt requested. Failure to file such petition

within the time stated shall operate as a waiver of the right of such person to review under this chapter, except that for good cause shown, the judge of the superior court may issue an order permitting a review of the administrative decision under this chapter notwithstanding such waiver. (1953, c. 1094, s. 4.)

§ **143-310. Contents of petition; copies served on all parties.**—The petition shall explicitly state what exceptions are taken to the decision or procedure of the agency and what relief the petitioner seeks. Within ten days after the petition is filed with the court, the person seeking the review shall serve copies of the petition by registered mail, return receipt requested, upon the agency which rendered the decision, and upon all who were parties of record to the agency proceedings. Names and addresses of such parties shall be furnished to the petitioner by the agency upon request. Any party to the agency proceeding may become a party to the review proceedings by notifying the court within ten days after receipt of the copy of the petition. (1953, c. 1094, s. 5.)

§ **143-311. Record filed by agency with clerk of superior court; contents of record; costs.**—Within thirty days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceedings under review. With the permission of the court, the record may be shortened by stipulation of all parties to the review proceedings. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for such additional costs as may be occasioned by the refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable. (1953, c. 1094, s. 6.)

§ **143-312. Stay of board order.**—At any time before or during the review proceeding the aggrieved person may apply to the reviewing court for an order staying the operation of the administrative decision pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper. (1953, c. 1094, s. 7.)

§ **143-313. Procedure for taking newly discovered evidence.**—At any time after petition for review has been filed, application may be made to the reviewing court for leave to present additional evidence. If the court is satisfied that the evidence is material to the issues, that it is not merely cumulative, and that it could not reasonably have been presented at the hearing before the agency, the court may remand the case to the agency where additional evidence shall be heard. The agency may then affirm or modify its findings of fact and its decision, and shall file with the reviewing court as a part of the record the additional evidence, together with the affirmation, or any modifications, of its findings or decision. (1953, c. 1094, s. 8.)

§ **143-314. Review by court without jury on the record.**—The review of administrative decisions under this chapter shall be conducted by the court without a jury. The court shall hear oral arguments and receive written briefs, but shall take no evidence not offered at the hearing; except that in cases of alleged irregularities in procedure before the agency, not shown in the record,

testimony thereon may be taken by the court; and except that where no record was made of the administrative proceeding or the record is inadequate, the judge in his discretion may hear the matter de novo. (1953, c. 1094, s. 9.)

§ 143-315. Scope of review; power of court in disposing of case.—The court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(1) In violation of constitutional provisions; or
(2) In excess of the statutory authority or jurisidiction of the agency; or
(3) Made upon unlawful procedure; or
(4) Affected by other error of law; or
(5) Unsupported by competent, material, and substantial evidence in view of the entire record as submitted; or
(6) Arbitrary or capricious.

If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become a part of the record, the reasons for such reversal or modification (1953, c. 1094, s. 10.)

§ 143-316. Appeal to Supreme Court; obtaining stay of court's decision.—Any party to the review proceedings, including the agency, may appeal to the Supreme Court from the final judgment of the superior court under rules of procedure applicable in other civil cases. The appealing party may apply to the superior court for a stay of its final determination, or a stay of the administrative decision, whichever shall be appropriate, pending the outcome of the appeal to the Supereme Court. (1953, c. 1094, s. 11.)